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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/728,471 | 11/30/2000 | Alan Young | CIT10207 | 3173 |
| 27510 | 7590 | 12/10/2003 | EXAMINER | |
| KILPATRICK STOCKTON LLP 607 14TH STREET, N.W. SUITE 900 WASHINGTON, DC 20005 | | | JAKETIC, BRYAN J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3627 | |

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,471

Applicant(s)

YOUNG ET AL.

Examiner

Bryan Jaketic

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-12,14-23,25,26,46 and 62-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-12,14-23,25,26,46 and 62-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claims 1-7, 9-12, 14-23, 25, 26, 46, and 62-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrove et al in view of Franklin et al. Musgrove et al disclose a system and method for performing electronic transactions comprising the steps of: receiving selection data identifying a product offered for purchase from a merchant in a transaction portal server (20) coupled to a merchant server (40) provided with a merchant check-out application that is in communication with a product database of the merchant and an order fulfillment system of the merchant (see col. 4, lines 59-65) from a web browser via a communication network (100); providing product information data from the product database of the merchant via the network (see col. 5, lines 11-

Art Unit: 3627

45); receiving customer information and shipping detail data comprising a customer address and instructions related to shipping by the merchant check-out application (see col. 6, line 45 through col. 7, line 6); and transmitting order information to the order fulfillment system of the merchant (see col. 8, lines 1-15).

Musgrove et al do not teach a wireless communications network. However, wireless communications networks are common in the art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a wireless communications network with the invention of Musgrove et al for customer convenience.

Musgrove et al do not teach an electronic wallet server. Franklin et al disclose a method for performing an electronic transaction comprising the steps of receiving payment option data associated with an electronic wallet server (Fig. 10; col. 24, line 39 through col. 25, line 64). Franklin et al further teach the steps of transmitting payment authorization data (col. 27, lines 28-50). Franklin et al also teach that the invention may be used with a transaction portal (see col. 14, lines 14-29), and it is therefore inherent that authorization data would be sent to the portal in such a configuration. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Franklin et al with the invention of Musgrove et al to employ an electronic wallet server for customer convenience and to transmit payment authorization data to complete the sale.

Musgrove et al further teach that product display includes a unique product code and a price, and that products may be searched or selected by a product code (see col.

Art Unit: 3627

5, lines 28-46). Musgrove et al also teach the step of receiving customer identification information (see col. 6, lines 45 through col. 7, line 6). Musgrove et al also teach the step of providing an order confirmation to the interface-enabled communications device (see col. 7, lines 21-41).

Neither Musgrove et al nor Franklin et al teach that the interface-enabled communications device comprises a wireless telephone. However, it is common in the art to use wireless telephones as a communications interface, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the use of wireless telephones with the combination of Musgrove et al and Franklin et al to allow consumers to make purchases from any location.

Neither Musgrove et al nor Franklin et al teach that the user identification comprises a telephone number. However, it is common in the art to use any unique number as an identification. It therefore would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a telephone number as a user identification number because it is a unique number that can easily be remembered.

Neither Musgrove et al nor Franklin et al teach a joint venture between a provider of the transaction portal server and a provider of the wireless communications-network. However, such joint ventures are common in the art, as is the step of providing consolidated bills. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a joint venture to consolidate bills for customer convenience and to lower operation costs.

Response to Arguments

4. Applicant's arguments with respect to claims 1-7, 9-12, 14-23, 25, 26, 46, and 62-69 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Payne et al disclose a sales system with a transaction portal.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

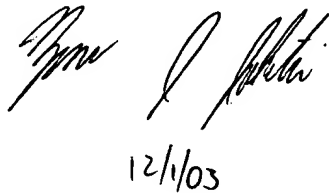
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Jaketic whose telephone number is (703) 308-0134. The examiner can normally be reached on Monday through Friday (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703)308-5183. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

bj



12/1/03